

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

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KENNETH FITCH and  
ESTATE OF DIANNE L. FITCH

Plaintiffs,

V.

FEDERAL HOUSING FINANCE  
AGENCY, FEDERAL NATIONAL  
MORTGAGE ASSOCIATION,  
WELLS FARGO BANK, N.A.,  
HARMON LAW OFFICES, P.C., and  
266 PUTNAM AVENUE, LLC

Defendants.

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Civil Action No. 1:18-cv-00214

**DEFENDANT 266 PUTNAM AVENUE, LLC’S MOTION TO COMPEL PLAINTIFFS’  
PRODUCTION OF DOCUMENTS AND FOR AN ORDER REQUIRING PAYMENT OF  
EXPENSES ASSOCIATED WITH THE FILING OF THIS MOTION**

Pursuant to Rules 37(a)(3)(B)(iv) and 37(a)(5)(A) of the Federal Rules of Civil Procedure and Local Rule 37, Defendant 266 Putnam Avenue, LLC (“266 Putnam”) hereby moves to compel the production of documents by Plaintiffs Kenneth Fitch and the Estate of Dianne L. Fitch (collectively, “Plaintiffs”) in response to 266 Putnam’s First Request for the Production of Documents to Plaintiffs (the “Request”), and for an order requiring Plaintiffs to pay 266 Putnam’s expenses, including attorneys’ fees, in connection with the filing of this motion. (A copy of the Request is attached hereto as Exhibit A.) As grounds for this motion, 266 Putnam states that it served the Request on Plaintiffs by first class mail on April 4, 2019. Plaintiffs’ response to the Request was due to be served on or before May 7, 2019, however, no response was provided. On May 20, 2019, the undersigned counsel and Plaintiffs’ counsel had a telephone conference concerning Plaintiffs’ delinquent response to the Request. It was agreed, and

subsequently confirmed by an email attached hereto as Exhibit B, that Plaintiffs would have an extension until May 29, 2019, to respond to the Request before a motion to compel would be filed. To date, Plaintiffs have failed to respond in any manner to the Request.

Accordingly, this Court should enter an order compelling the Plaintiffs' production of documents in response to the Request, without objection, within fourteen (14) days and requiring the Plaintiffs to pay 266 Putnam's expenses, including attorneys' fees, associated with making this motion.

266 PUTNAM AVENUE, LLC

By its attorney,

/s/ Zachary W. Berk

Zachary W. Berk (RI Bar No. 7453)  
SAUL EWING ARNSTEIN & LEHR LLP  
131 Dartmouth Street, Suite 501  
Boston, MA 02116  
T: (617) 912-0927  
F: (617) 723-4151  
[Zachary.Berk@saul.com](mailto:Zachary.Berk@saul.com)

DATED: June 12, 2019

**RULE 37(a)(1) CERTIFICATION**

I, Zachary W. Berk, counsel for Defendant 266 Putnam Avenue, LLC, hereby certify that I conferred with Plaintiffs' counsel in good faith in an effort to obtain the discovery requested by this motion without court action.

/s/ Zachary W. Berk  
Zachary W. Berk

**CERTIFICATE OF SERVICE**

I, Zachary W. Berk, hereby certify that this document filed through the ECF system will be served electronically upon the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Zachary W. Berk  
Zachary W. Berk